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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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Darrell J. Metcalf

9176

7590

09/07/2004

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EXAMINER

LAO, LUN YI

ART UNIT

PAPER NUMBER

2673

13

DATE MAILED: 09/07/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/929,615

Applicant(s)

METCALF, DARRELL J.

Examiner

Lao Y Lun

Art Unit

2673

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 July 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-33 is/are pending in the application.
- 4a) Of the above claim(s) 29 and 30 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-28, 31 and 32 is/are rejected.
- 7) ☒ Claim(s) 32 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Drawings

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference characters "12 " and "62" have both been used to designate **pixilated material**. Corrected drawing sheets are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.
2. The drawings are objected to because "lining material 48" and "pixilated material 12 or 62" pointed to the same area in Figs. 1A, 1B, 2B, 3). Corrected drawing sheets are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered

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and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Objections

3. Claims 1-28 and 31-33 are objected to because of the following informalities:

" " should be changed to -- : -- on claim 1, line 2.

" 1 " cited in claim 1, line 3 and claim 33, line 2 should be changed to – A – since "1." will be easy to mix up with claim 1.

" 2 " cited in claim 11, line 3 and claim 33, line 7 should be changed to – B – since "2." will be easy to mix up with claim 2.

Appropriate correction is required.

Specification

4. The Title should not be too long, preferably from two to seven words(See 37 CFR 1.72(a) and MPEP § 606).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1, 2, 12, 15, 19-28, 31 and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Albert et al(6,252,564) in view of Fitch(5,912,653) and Adler et al(6,297,805).

As to Claims 1, 2, 12, 15, 19-28, 31 and 33, Albert et al teach wearable pixelated apparel comprising at least one apparel segment made entirely of highly flexible lightweight pixelated material is shaped to conform to a three-dimensional portion of a human body(see figure 9; column 18, lines 51-68 and column 19, lines 1-9) and an image apparatus(see figures 6A, 10; column 13, lines 62-67; column 14, lines 1-23; and column 19, lines 16-31). The image apparatus comprising one control circuit; an intelligent controller(340) and a power source(320)(see figures 6A, 6B; column 13, lines 62-67 and column 14, lines 1-64).

Albert et al fails to disclose a display apparel having a playback means; controller software.

Fitch teaches a display apparel having a digital media content playback means(see figure 3 and column 3, lines 29-33); a user interface means(52, 54) for a user to communicate digital media content(see figure 6 and column 3, lines 60) and controller software(EEPROM)(see figure 6 and column 5, lines 21-40). It would have been obvious to have modified Albert et al with the teaching of Fitch, so a display apparel could receive external video signal from different input rather than an antenna and a user could review a display image as the user want.

Albert et al as modified fail to disclose imagery according to the size and shape of lest one pixelated material(apparel-whole).

Adler et al teach the sizes and shapes in conformance with the size and shape of the pixilated material(see figures 6-7 and column 9, lines 40-51). It would have been obvious to have modified Albert et al as modified with the teaching of Adler et al, since Albert et al have disclosed the shape of images on a display could be changed by an operator(see figure 9; column 19, lines 1-9 and lines 46-50) and so the same amount of display content could be presented on different size and shape of a display.

As to claims 2, 12, 15 and 26, Albert et al teach at lest one portion of perimeter edge of the pixelated material segments is adjoined(zipper or tongue-in-groove fastener) to at lest one portion of perimeter edge of another segments(see figures 8A-8D and column 17, lines 1-8).

As to claim 21, Fitch teaches a pre-recorded material playback device(see figures 3, 6; column 1, lines 25-47 and column 3, lines 29-44).

As to claim 19, Albert et al teach an optical communication(see figures 6, 10 and column 19, lines 33-44).

As to claims 22-25, Albert et al teach a display content having video game advertisement and promotional message(see figure 10 and column 20, lines 17-28).

As to claim 31, Albert et al teach an apparel having a lining material(see figure 9 and column 19, lines 1-9).

7. Claims 3-11, 13, 14 and 16-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Albert et al(6,252,564) in view of Fitch(5,912,653), Usuda(5,455,906) and Bastiaens et al(6,462,859).

As to claims 3-11, 13, 14 and 16-18, Albert et al as modified fail to disclose a heat-sealed, sonic-weld joint or hook-and-loop fastener, stapled joint, glued or adhesive joint, riveted joint, button-hole joint, sewed or stitched seam joint or knotted seam joint.

Bastiaens et al teaches a heat-sealed, sonic-weld joint and mechanical sealing joint(hook-and-loop fastener, stapled joint, glued or adhesive joint, riveted joint, button-hole joint, sewed or stitched seam joint or knotted seam joint)(see column 10, lines 25-28). It would have been obvious to have modified Albert et al with the teaching of Bastiaens et al, since Albert et al has disclose a plurality of displays could be joined together by connector(see figures 8A-8D) and a heat-sealed, sonic-weld joint or mechanical sealing joint is an alternative way to joint a plurality of display together.

Allowable Subject Matter

8. Claim 32 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Davila(4,602,191) teaches a jacket having programmable lights.

Spearing(6,679,615) teaches a flexible display segment(2) can be various shapes and sizes.

10. Applicant's arguments with respect to claims 1-28 and 31-33 have been considered but are moot in view of the new ground(s) of rejection.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lun-yi, Lao whose telephone number is (703) 305-4873.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bipin Shalwala, can be reached at (703) 305-4938.

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks

Washington, D.C. 20231

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or faxed to:

(703) 872-9314 (for Technology Center 2600 only)

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive,
Arlington, VA, Sixth Floor (Receptionist).

Any inquiry of a general nature or relating to the status of this application or
proceeding should be directed to the Technology Center 2600 Customer Service Office
whose telephone number is (703) 306-0377.

September 3, 2004


Lun-yi Lao
Primary Examiner